

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DON RUPPEL, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

CONSUMERS UNION OF UNITED STATES,
INC.,

Defendant.

Civil Action No. 16-cv-02444-KMK

**DECLARATION OF JENNIFER M. KEOUGH REGARDING SETTLEMENT
ADMINISTRATION**

I, JENNIFER M. KEOUGH, declare and state as follows:

1. I am the Chief Executive Officer at JND Legal Administration LLC (“JND”). JND is a legal administration services provider with its headquarters located in Seattle, Washington. JND has extensive experience with all aspects of legal administration and has administered settlements in hundreds of class action cases.

2. JND is serving as the Settlement Administrator in the above-captioned litigation (“Action”) for the purposes of administering the Settlement Agreement preliminarily approved by the Court in its Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representative, Appointing Class Counsel, and Approving Notice Plan (the “Order”) dated July 27, 2018. The following statements are based on my personal knowledge and information provided to me by other JND employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

EXPERIENCE

3. JND is one of the leading legal administration firms in the country, and the principals of JND, including myself, collectively have over 75 years of experience in class action legal and administrative fields. JND's class action division provides all services necessary for the effective implementation of class action settlements including: (1) all facets of legal notice, such as outbound mailing, email notification, and the design and implementation of media programs, including through digital and social media platforms; (2) website design and deployment, including on-line claim filing capabilities; (3) call center and other contact support; (4) secure class member data management; (5) paper and electronic claims processing; (6) calculation design and programming; (7) payment disbursements through check, wire, Paypal, merchandise credits, and other means; (8) qualified settlement fund tax reporting; (9) banking services and reporting; and (10) all other functions related to the secure and accurate administration of class action settlements. Our systems, policies, and procedures have been recognized by various publications, including the National Law Journal and the Legal Times, and most recently, the New York Law Journal, for excellence in class action administration.

NOTICE AND ADMINISTRATION SERVICES

4. **CAFA Notification.** In compliance with the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, JND compiled a CD-ROM containing the following documents: Class Action Complaint (with Exhibits), Notice of Motion for Preliminary Approval of Class Action Settlement, Declaration of Joseph I. Marchese in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, Class Action Settlement Agreement, forms of Class Notice (filed as exhibits to the Class Action Settlement Agreement), Memorandum of Law in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, and Proposed Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representative, Appointing Class Counsel, and Approving Notice Plan, which accompanied a cover letter (collectively, the "CAFA Notice Packet").

5. The CD-ROM was mailed overnight mail via Federal Express on April 19, 2018, to the appropriate Federal and State officials identified in the attachment to the accompanying cover letter, a copy of which is attached hereto as **Exhibit A**.

6. As of the date of this declaration, JND has received no response to the CAFA Notice Packet from any of the recipients identified in paragraph five above.

7. **Emailed Notice and Mailed Notice.** On May 3, 2018, the Defendant provided JND with a list of 583,106 persons identified as the Class Member List. JND entered the Class Member List information into its proprietary database and prepared a data file for the initial mailing. Prior to mailing, JND caused the addresses in the Class Member List to be updated using the National Change of Address database ("NCOA") maintained by the U.S. Postal Service. A total of 9,291 addresses were found and updated.

8. JND identified 894 duplicative records. JND removed these duplicative records from the Class Member List, resulting in 582,212 remaining on the Class Member List.

9. On August 17, 2018, JND e-mailed a summary version of the Notice (the "E-mail Notice") to each of the 271,165 valid email addresses on the Class Member List. A sample of the E-mail Notice is attached hereto as **Exhibit B**.

10. Of the 271,165 E-mail Notices that were sent, JND tracked 197,366 E-mail Notices that were sent successfully and 73,799 that were deemed undeliverable.

11. Pursuant to the Settlement Agreement, JND reviewed the e-mail addresses for the undeliverable E-mail Notice records and corrected any issues that may have caused the "bounce-back" to occur.

12. On August 24, 2018, JND sent 48 E-mail Notices to corrected e-mail addresses. Of the 48 E-mail Notices sent, JND tracked 34 E-mail Notices that were sent successfully and 14 that were deemed undeliverable.

13. On August 24, 2018, JND mailed the Postcard Notice and Claim Form (the "Postcard Notice") to each of the 311,134 persons where an email address was not available. On September 4, 2018, JND mailed the Postcard Notice to each of the 73,716 persons where the E-mail Notice was not delivered

successfully and a postal mailing address was available. A representative copy of the Postcard Notice is attached as **Exhibit C**.

14. As of October 12, 2018, JND has received a total of 452 Postcard Notices returned by the U.S. Postal Service with forwarding addresses. JND caused the class list to be updated with the new addresses and Postcard Notices to be re-mailed to the updated addresses. As of October 12, 2018, JND has received a total of 16,683 Postcard Notices returned by the U.S. Postal Service without forwarding address information.

15. As of the date of this declaration, direct notice was successfully delivered to 565,536 persons on the Class Member List, or 97% of the Settlement Class. Of the 565,536 persons on the Class Member List who direct notice was successfully delivered, 197,369 persons received direct notice via E-mail Notice and 368,167 persons received direct notice via Postcard Notice.

16. **Toll-Free Telephone Number**. On August 24, 2018, JND established a settlement-specific dedicated toll-free number, 1-888-337-9111, for Class Members to call for additional information about the Settlement. Callers have the option to listen to an Interactive Voice Response (“IVR”) system, or to speak with a live agent. As of October 12, 2018, JND has received 1,794 calls to the toll-free number.

17. **Website**. On August 6, 2018, JND established a website, www.crmagazinesettlement.com, dedicated to this settlement to provide additional information to the Class Members and to answer frequently asked questions. Viewers of the website can download the Notice, Claim Form, Settlement Agreement, Preliminary Approval Order, Notice of Motion for Attorneys’ Fees, Costs, Expenses, and Incentive Award, Declaration of Joseph I. Marchese in Support of Plaintiff’s Motion, Declaration of Don Ruppel in Support of Plaintiff’s Motion, and Memorandum of Law in Support of Plaintiff’s Motion. Visitors can also submit claims online. The web address was set forth in the E-mail Notice, Postcard Notice, and Claim Form. As of October 12, 2018, the website has received 29,347 visits.

18. **Requests for Exclusion**. The deadline for Class Members to request to be excluded from the class was a postmarked deadline of October 4, 2018. As of the date of this declaration, JND has

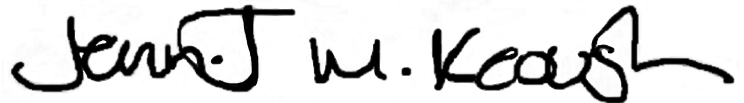
received 12 requests for exclusion. A list of the Class Members requesting to be excluded is attached hereto as **Exhibit D**.

19. **Objections to the Settlement.** The deadline for Class Members to object to the Settlement was a postmarked deadline of October 4, 2018. As of the date of this declaration, JND has not received any objections to the settlement.

20. **Claim Forms.** The deadline for Class Members to file a claim is a postmarked deadline of January 17, 2019. As of the date of this declaration, JND has received 28,999 claim forms. JND will continue the process of evaluating claim forms received and will continue to do so over the next few months. These numbers are subject to change as JND continues our review of claims and since the filing deadline has not yet passed. In addition, these 28,999 claims have yet to be validated or screened for duplicates.

I declare under the penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Executed on October 15, 2018 at Seattle, Washington.

A handwritten signature in black ink, reading "Jennifer M. Keough", written over a horizontal line.

JENNIFER M. KEOUGH